

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Donna Miller v John Head**
Docket No. **268644**
L.C. No. **2002-043276-CZ**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The claim of appeal from the November 7, 2005 judgment is DISMISSED for lack of jurisdiction since appellant failed to file her claim within 21 days of its entry. MCR 7.202(6)(a)(i), 7.203(A)(1), and 7.204(A)(1)(a). Unfortunately, the time to file a claim of appeal is not tolled by the filing of a motion for attorney fees and costs. *Baitinger v Brisson*, 230 Mich App 112, 116; 583 NW2d 481 (1998). If appellant still wants to appeal this judgment, she must file a delayed application for leave to appeal under MCR 7.205. See MCR 7.203(B)(5).

The claim from the February 2, 2006 order awarding attorney fees, however, may go forward as this Court has an independent grant of jurisdiction to hear an appeal from this order. MCR 7.202(6)(a)(iv) and 7.203(A)(1).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 16 2006

Date

Sandra Schultz Mengel
Chief Clerk